IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2847 OF 2006

In

SUIT NO.3411 OF 1988

Shri Ramchandra Tukaram Borale : Plaintiff

V/s.

M/s.Ramnath International Construction Pvt. Ltd. & Anr. : Defendants

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Mr.U.P. Warunjikar for the plaintiff.

Mr.Simil Purohit i/b. M/s.Vimadalal & Co., for defendant no.1.

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CORAM : S.A.BOBDE, J.

DATE : FEBRUARY 20, 2007.

P.C.

1. By this Notice of Motion, the defendant seeks an injunction restraining the plaintiff from executing the ex parte decree dated 13.3.2002 or from taking any steps in furtherance or towards the execution of the said decree.

2. The plaintiff had sued the defendants for a sum of Rs.1,05,000/- on account of salary dues, accident claim and medical expenses incurred by the plaintiff from the

plaintiff's employer.

3. This suit was decreed on 13.2.2002 ex parte. This Court decreed the suit in the sum of Rs.1,05,000/- with interest at the rate of 18% per annum from the date of the suit till realisation. The defendant seeks an injunction in respect of this decree.

4. I see no merit whatsoever in the defendants' claim in view of the fact that the defendants had filed Appeal no.150 of 2003 where they were asked to deposit a sum of Rs.80,000/- on 5.4.2003. The defendants failed to make the deposit. Thereafter, when the appeal came up for hearing on 24.11.2003, the defendants withdrew that appeal.

5. Having suffered an ex pate decree and having withdrawn the appeal, there is no merit wheresoever in the prayer now made by the defendant in this Notice of Motion filed on 23.8.2006, that the execution of the decree be stayed.

6. The Notice of Motion is, therefore, dismissed.

S.A. BOBDE, J.